

245.

Syllabus.

measure of damages were not assigned as error in the Circuit Court of Appeals and so far as appears objection to them was not otherwise called to its attention. Under Rule 11 of that court, 150 Fed. Rep. xxvii, errors not assigned are to be disregarded, except that the court, in its discretion, may notice a plain error not assigned. As the above rulings of the Supreme Court on the measure of damages were not assigned as errors in the Circuit Court of Appeals and were not considered by it they cannot be insisted upon here as grounds for reversal.¹

The judgment of the Circuit Court of Appeals is

Affirmed.
